

Senate Bill 532

By: Senator James of the 35th

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 7 of Title 16 and Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to burglary and penalties for violations of Code Sections 16-8-2 through 16-8-9, respectively, so as to increase the punishment for burglary and certain theft offenses; to provide for mandatory minimum punishment for burglary and exceptions thereto; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to burglary, is amended by revising Code Section 16-7-1, relating to burglary, as follows:

"16-7-1.

(a) A person commits the offense of burglary when, without authority and with the intent to commit a felony or theft therein, he or she enters or remains within the dwelling house of another or any building, vehicle, railroad car, watercraft, or other such structure designed for use as the dwelling of another or enters or remains within any other building, railroad car, aircraft, or any room or any part thereof. A person convicted of the offense of burglary, for the first such offense, shall be punished by imprisonment for not less than one nor more than 20 years. For the purposes of this Code section, the term 'railroad car' shall also include trailers on flatcars, containers on flatcars, trailers on railroad property, or containers on railroad property.

(b) Upon a second conviction for a crime of burglary occurring after the first conviction, a person shall be punished by imprisonment for not less than ~~two~~ five nor more than 20 years. Upon a third conviction for the crime of burglary occurring after the first conviction, a person shall be punished by imprisonment for not less than ~~five~~ ten nor more than 20 years. Adjudication of guilt or imposition of sentence shall not be suspended, probated, deferred, or withheld for any offense punishable under this subsection.

(c) The sentence imposed upon a person convicted of any violation of this Code section shall not be reduced to less than one year of imprisonment for a first or second conviction or less than two years for a third or subsequent conviction, and no sentence imposed upon a person for a second or subsequent conviction of any violation of this Code section shall be suspended or reduced until such person shall have served the mandatory minimum period of imprisonment provided for in this Code section. Such mandatory minimum sentence shall not be suspended, probated, deferred, stayed, or withheld; provided, however, that it shall be within the authority and discretion of the sentencing judge to suspend, probate, defer, stay, or withhold the minimum sentence where there exists clear and convincing evidence that imposition of the minimum sentence would either create an undue hardship upon the defendant or result in a failure of justice. Any person convicted under this Code section shall, in addition, be subject to the sentencing provisions of Code Section 17-10-7."

SECTION 2.

Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for violations of Code Section 16-8-2 through 16-8-9, is amended by revising paragraph (1) of subsection (a) as follows:

"(1) If the property which was the subject of the theft exceeded \$500.00 in value, by imprisonment for not less than one nor more than ten years or, in the discretion of the trial judge, as for a misdemeanor; provided, however, that upon a second or subsequent conviction, such person shall be punished by imprisonment for not less than one nor more than 20 years;"

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.